

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

VOLUME: I
PAGES: 1-49

U.S. ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
File Number: 200201108

Public Comment regarding the
Application by Winergy, L.L.C., dated February
2003, held at the JFK Federal Building, Conference
Room C, 55 New Sudbury Street, Boston,
Massachusetts, on May 1, 2003, at 1:00 p.m.,
concerning:

APPLICATION OF WINERGY, L.L.C., TO INSTALL, OPERATE
AND MAINTAIN ARRAYS OF WIND TURBINE GENERATORS AT
SEVERAL OFFSHORE SITES IN MASSACHUSETTS

REPORTER: MARIANNE KUSA-RYLL, RMR
JUSTICE HILL REPORTING
252 JUSTICE HILL ROAD, P.O. BOX 610
STERLING, MASSACHUSETTS 01564-0610
TELEPHONE: (978) 422-8777 FAX (978) 422-7799

I N D E X

1		
2	Speakers:	Page
3		
4	Colonel Thomas Koning	5
5	Arthur Pugsley	11
6	Karen Adams	20
7	Robert Link	26
8	Dennis Quaranta	32
9	Vernon Lang	37
10	Tod Hynes	40
11	Dorothy Allen	42
12	Edward Perry	45
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		

1 P R O C E E D I N G S

2

3 MODERATOR ROSENBERG: Good afternoon.

4 Good afternoon, and welcome to this
5 public hearing regarding the permit application for
6 offshore wind energy generating structures
7 submitted by Winergy L.L.C.

8 My name is Larry Rosenberg, and I'm the
9 Chief of Public Affairs for the United States Army
10 Corps of Engineers in New England. I will be your
11 moderator and your facilitator today.

12 Our Hearing Officer this afternoon is
13 Colonel Thomas Koning, the District Engineer of the
14 United States Army Corps of Engineers in New
15 England.

16 Before we begin, I would like to thank
17 you for getting involved in this environmental
18 review process. You see, we're here today to
19 listen to your comments, understand your concerns,
20 and to provide you an opportunity to appear on the
21 record, should you care to do so. This forum is
22 yours.

23 The agenda for the public hearing is,
24 following this introduction, Colonel Koning will

1 address the hearing. He'll be followed by Arthur
2 Pugsley of the Massachusetts Environmental Policy
3 Act Office; and Karen Adams of the New England
4 District of the Corps of Engineers.

5 Following those discussions,
6 representatives from Winergy, the permit applicant,
7 will discuss the permit application.

8 I will then review the Corps of
9 Engineers' responsibilities in this process and
10 explain the hearing procedures.

11 Following that, I will open the floor
12 to public comment, utilizing the hearing protocols,
13 which are available at the registration desk.

14 At this time, I would like to remind
15 you of the importance of filling out those cards
16 that were available at the desk. These cards serve
17 two purposes: First, they let us know that you're
18 interested in this permit, so we can keep you
19 informed; second, they provide me a list of those
20 who wish to speak today. If you did not complete a
21 card, but wish to speak or receive future
22 information, one will be provided at the
23 registration desk.

24 You're also reminded that an additional

1 stenographer is available outside this hall in the
2 rear, should you wish to provide comment on the
3 record without the imposed time restriction that
4 will be determined prior to our receiving your
5 comments.

6 Should you need copies of the public
7 notice, the hearing procedures, or other pertinent
8 information, all is available at the registration
9 desk.

10 I should also point out before we begin
11 that the Corps of Engineers has made no
12 determination regarding the permit application in
13 question.

14 Lastly, we are here to receive your
15 comments, not to enter into any discussion of those
16 comments, or to reach any conclusion. Any
17 questions you have should be directed to the record
18 and not to the individuals on this panel.

19 Thank you.

20 Ladies and gentlemen, Colonel Koning.

21 COLONEL KONING: Thank you, Larry.

22 I'd like to welcome you today to this
23 public hearing on a request for a permit by
24 Winergy, L.L.C. to install wind-generating turbine

1 structures in the waters off the coast of
2 Massachusetts.

3 I am Colonel Tom Koning of the New
4 England District Corps of Engineers. Our
5 headquarters is located in Concord, Massachusetts.

6 Other Corps of Engineers
7 representatives with me here today are Karen Adams,
8 our Permit Project Manager and the Chief of
9 Permits, an enforcement section of the
10 Massachusetts branch of our regulatory office. I
11 have Lieutenant Colonel Brian Green, the Deputy
12 District Engineer, Kevin Kotelly, the Permit
13 Project Manager; Sue Holtham in the back somewhere,
14 who is our Senior Environmental Resource
15 Specialist, who is working with our regulatory
16 office on the NEPA issues; John Astley, our
17 District Counsel; and Larry Rosenberg, who you just
18 met, the Chief of Public Affairs.

19 Today's hearing is a joint hearing held
20 in conjunction with the Commonwealth of
21 Massachusetts Executive Office of Environmental
22 Affairs. It is being conducted of our respective
23 agencies regulatory programs solely to listen to
24 the public comments and understand the public's

1 concerns.

2 By conducting this public hearing, we
3 continue to fulfill our regulatory responsibilities
4 to seek public comments related to this Winergy
5 proposal.

6 Our statutory authorities in this
7 permit process are defined by Section 404 of the
8 Clean Water Act, and by Section 10 of the Rivers
9 and Harbors Act. Our statutory process to gather
10 information, analyze data and involve the public is
11 found in the National Environmental Protection --
12 Policy Act. Excuse me.

13 While no decision will be made today,
14 my determination and my decision to issue or deny a
15 permit will be based on an evaluation of the
16 probable impacts of the Winergy's proposed
17 activities, and your comments will be considered in
18 evaluating whether this permit application will be
19 issued or denied.

20 I would like to thank you for involving
21 yourself in this environmental review process.
22 Please feel free to bring up any topics that you
23 feel need to be discussed on the record. I assure
24 you that all of your comments will be addressed

1 through the process.

2 I would briefly like to review the
3 Corps of Engineers' role in this process. First,
4 the Corps' jurisdiction in this case is Section 404
5 of the Clean Water Act, which regulates the
6 discharge of fill material in the waters of the
7 United States, including wetlands; and a Section 10
8 of the Rivers and Harbors Act of 1899, which
9 authorizes the Corps to regulate structures, or
10 work in or affecting the navigable waters of the
11 United States.

12 Second, the detailed regulations that
13 explain the procedure for evaluating permit
14 applications and unauthorized work is Title 33 of
15 the Code of Federal Regulations, parts 320 through
16 330.

17 And third, the Corps' decision rests
18 upon several important factors, to include, in this
19 case, the Corps will evaluate this individual
20 permit under the 404(b)(1) guidelines. These
21 guidelines, prepared with the Environmental
22 Protection Agency in consultation with the Corps,
23 are the federal environmental regulations
24 specifically designed to avoid unnecessary impacts

1 to the waters and wetlands of the United States.

2 The Corps coordinates compliance with related
3 federal laws to include the National Environmental
4 Policy Act, the Endangered Species Act, and other
5 associated federal laws that impact on navigation,
6 security, historic preservation, and the outer
7 continental shelf.

8 In accordance with these aforementioned
9 regulations and statutory authorities, my decision
10 to issue or deny this permit will be based on
11 evaluation of the probable impacts of the proposed
12 activity on the public interest. This decision
13 will reflect the national concern for both the
14 protection and utilization of important resources,
15 as well as the benefits that will reasonably accrue
16 from the proposal, balanced against its reasonably
17 foreseen detriments.

18 All factors which may be relevant to
19 the proposal will be considered in my decision, and
20 those factors include, but are not limited to,
21 conservation, economics, esthetics, the
22 environment, fish and wildlife values, navigation,
23 recreation, water supply, food production, and in
24 general, the welfare and needs of the American

1 people.

2 Subsequent to my determination, the
3 Corps conducts a broad-based policy interest
4 review, and this hearing is part of that review.
5 All factors affecting the public will be included
6 in our evaluation, and your comments will help me
7 in reaching a decision. This hearing will be
8 conducted in a manner so that all who wish and
9 desire to express their views will be given an
10 opportunity to speak. To preserve that right of
11 all to express their views, I ask that there be no
12 interruptions while people are speaking.

13 The record of this hearing will remain
14 open, and written comments may be submitted today
15 or by mail to either of the two agencies until
16 May 16th of 2003. All comments will receive equal
17 consideration.

18 And lastly, no decision has been made
19 by the Corps of Engineers with regard to either
20 this permit application or the need for an
21 Environmental Impact Statement. It is our
22 responsibility to evaluate both the environmental
23 and the socioeconomical impacts prior to our
24 decision; and in order to accomplish that, we look

1 forward to hearing your input today.

2 Thank you.

3 MR. PUGSLEY: Thank you, Colonel, and
4 thank you all for coming.

5 Again my name is Arthur Pugsley. I'm
6 here representing the Massachusetts Secretary of
7 Environmental Affairs, Ellen Roy Herzfelder, and
8 what I'll be doing today is just giving you a brief
9 overview of the MEPA process and its -- an
10 explanation of its role and how it relates to the
11 review of the proposed Winergy wind farms.

12 Again, my name is Arthur Pugsley.
13 Basically, MEPA is a state law passed in 1972, the
14 Massachusetts Environmental Policy Act. The
15 regulations for it were most recently modified in
16 1998. It's Massachusetts General Laws
17 Section -- Chapter 30, Section 61 to 62H. It's an
18 informal administrative process that provides an
19 opportunity for public comment and demonstration,
20 an informational gathering process for the purpose
21 of which is to provide information for state
22 permitting agencies who have permitting actions on
23 a project.

24 MEPA, as I said, is a process that

1 requires the study of feasible alternatives to a
2 project, a disclosure of impacts from any
3 alternative that is studied as part of a project
4 review, as well as a demonstration that a proponent
5 has avoided, minimized or mitigated damage to the
6 environment to the maximum feasible extent.

7 But an important part of the process is
8 also the opportunity for public review and input
9 into the Environmental Impact Review process.

10 MEPA is not a permitting agency. It
11 doesn't result in a substantive decision approving
12 or disapproving a project. Rather, it is an
13 informal process that results in a certification
14 that there is sufficient information known about
15 the environmental impacts of a project for the
16 project to proceed into the state permitting
17 process. MEPA is not a zoning appeals agency,
18 or -- nor is it an enforcement agency.

19 MEPA requires state agencies -- the
20 burden it places on state permitting agencies is
21 very similar to the burden it places on a project
22 proponent. It requires that the agency study the
23 environmental consequences of their actions, take
24 all feasible measures to avoid, minimize or, again,

1 mitigate damage to the environment; study
2 alternatives to a proposed action; and then the one
3 difference between the mandate proposed upon
4 a -- imposed on a proponent versus a state agency
5 is that at the end of the process, the agencies for
6 which some permit is required will make a
7 Section 61 finding, which is a formal finding under
8 MEPA that incorporates the mitigation from the EIR
9 process into the state permitting decisions that
10 are issued.

11 The timing of MEPA review occurs before
12 the final agency actions, the final permitting
13 actions by the state agency, and that ensures two
14 things. It ensures that the public has an
15 opportunity for input into the study and the
16 parameters of the environmental review, as well as
17 ensuring that the state permitting agencies have
18 adequate environmental information upon which they
19 should base their permit decisions.

20 MEPA review is required for all
21 projects that require some state agency action and
22 exceed a -- one of the applicable review thresholds
23 that are spelled out in the MEPA regulations. The
24 jurisdiction for the MEPA review process is based

1 on the permits that are needed for a project. In
2 the case of the Winergy projects, I should note
3 that although the projects are located on public
4 land, they are considered private projects, because
5 at this point, in any way, the proponent is not
6 proposing to receive any financial assistance from
7 any Commonwealth agencies.

8 The primary process by which
9 information on environmental impacts is gathered is
10 known as the Environmental Impact Report, or EIR.
11 Basically, the proponent prepares an initial filing
12 called an Environmental Notification Form, or an
13 ENF, files that with the Secretary of Environmental
14 Affairs, and that triggers the review process. We
15 hold meetings, such as this one, and site visits,
16 and conduct a public -- written public comment
17 period.

18 The Secretary will then issue a finding
19 on the ENF called a Certificate, which will include
20 a scope for an EIR, if an EIR is, in fact, being
21 required. That will include basically a table of
22 contents for the EIR, as well as any instructions
23 to the proponent from the Secretary on how to
24 prepare the EIR, how to collect data, that sort of

1 thing.

2 The proponent then will prepare a draft
3 EIR, which would be subjected to another public
4 comment period. The Secretary then has another
5 opportunity to issue instructions back, and this
6 process continues until the proponent submits a
7 final EIR to the Secretary. And that, again, has a
8 review and public comment period associated with
9 it.

10 The MEPA process ends with a finding by
11 the Secretary that the final EIR has adequately
12 complied with the original requirements of the
13 scope, as well as the general requirements of the
14 MEPA regulations.

15 At that point, the state permitting
16 agencies can then take permitting actions on the
17 project. As I noted earlier, the state permitting
18 agencies will also incorporate, as part of their
19 permit findings, the Section 61 commitments that
20 emerge out of the EIR. So the -- whatever the
21 proponent commits to as mitigation in the EIR is
22 then tied into the state permitting process.

23 The state permitting agencies can then
24 issue their permits, after which the normal appeal

1 periods for those permits run, and then the permits
2 are either issued or denied.

3 The -- as I said, the proposed -- the
4 Winergy projects, we actually have five separate
5 ENFs before us. All five meet the same MEPA filing
6 threshold related to a cable crossing.

7 The -- there will be various state
8 permits that are required for the Winergy project.
9 All five will require a Chapter 91 license from the
10 Department of Environmental Protection for use of
11 public trust lands. In addition the -- at least
12 the three that are located, that are proposed for
13 state waters, will require a Section 401 water
14 quality certificate, also from the Department of
15 Environmental Protection. All five will require a
16 superseding Order of Conditions pursuant to the
17 Massachusetts Wetlands Protection Act from the DEP,
18 if in the event of an appeal of the local Order of
19 Conditions, as well as all five will require Energy
20 Facilities Siting Board review, and federal
21 consistency review by the Massachusetts Office of
22 Coastal Zone Management.

23 The permits, as I said, the MEPA
24 process is based on the subject matter of the

1 permits needed. In this case, the permits confer a
2 very broad jurisdiction, particularly the
3 Chapter 91 licenses and review by the Energy
4 Facilities Siting Board, confer with subject matter
5 jurisdiction under MEPA on virtually every topic of
6 concern relative to the environmental impacts.

7 Two other applicable state laws that
8 will figure prominently in our review are the
9 requirements of the Massachusetts Ocean Sanctuaries
10 Act. It's actually not a permitting process, but
11 it does impose performance standards that any
12 project will need to comply with, as well as the
13 general provisions of Section 61 of MEPA, which
14 require that all agencies interpret statutes when
15 there is some question as to what a statute's
16 intent is, to be the most maximally protective of
17 environmental resources.

18 In the case we have five applications
19 pending before us, three are located wholly in
20 state waters. Two are in a combination of state
21 waters and federal waters. The proposal is off
22 Nantucket. MEPA is limited by the -- basically
23 MEPA jurisdiction runs coterminous with the
24 Massachusetts territorial sea. So in the case of

1 the Nantucket projects, the MEPA review technically
2 applies only to the cable crossings that are
3 associated with the wind farms and not the wind
4 farms themselves. The three that are located in
5 state water, MEPA review applies to the entirety of
6 those projects.

7 Despite the limitations imposed by this
8 jurisdiction, the proponent has agreed to voluntary
9 allow coordination of the scopes between the state
10 and federal government; and what that means is that
11 if both the state and federal government were to
12 decide that an EIS and EIR, respectively, were
13 required, we would coordinate those scopes, and the
14 MEPA scope would include our advisory
15 recommendations on aspects of the project that are
16 in federal waters.

17 These are potential scope topics.
18 Again, if, in fact, an EIR is required, these were
19 taken -- actually, some of the major headings would
20 be familiar to anyone who has read the Cape Wind
21 scope, so I won't really go over them in any
22 detail. Just to put them in here to let you know
23 that it's a comprehensive list of environmental
24 impacts that we will be looking at, including

1 visual permitting consistency, and several comments
2 recently have talked about decommissioning plants.
3 That's something, as well, that we will be looking
4 into, as you can see on this slide.

5 As I said, we are reviewing the -- the
6 projects in a coordinated fashion with the federal
7 government and with the Cape Cod Commission. If an
8 EIS is required by the federal government, and an
9 EIR is required by the state government, the
10 project would automatically become a development of
11 the regional impact pursuant to the Cape Cod
12 Commission Act, which basically means that we would
13 be then coordinating with three separate levels of
14 government simultaneously, and we would issue
15 coordinated scopes, which would allow the proponent
16 to submit one set of documents that simultaneously
17 meets the need of the three different governmental
18 reviews, although each level of government is free
19 to maintain its independence from the other and
20 issue its own rulings on basically how the project
21 complies with its own statutory mandates.

22 And this, just to wrap it up, the
23 comment period deadline for the state process is
24 exactly the same as the federal process. It's

1 May 16th, and this is the address to which you can
2 send comments. If you don't get this, if it
3 disappears too quickly, I have a sheet out in the
4 back that explains the MEPA process, and it has a
5 link to our website where this will appear.

6 We also accept faxes. The fax number
7 is up there, or e-mail comments, simply
8 MEPA@state.ma.us.

9 And again, the comment deadline for the
10 state process is May 16th.

11 Thank you.

12 MS. ADAMS: I'm Karen Adams with the
13 Corps of Engineers.

14 I'll briefly explain the Corps' role in
15 the Winergy proposals, including our permit
16 authorities and procedures, and the National
17 Environmental Policy Act.

18 Under Section 10 of the Rivers and
19 Harbors Act of 1899, the Corps regulates all work,
20 which may affect navigable waters. This includes
21 the types of activities people most closely
22 associate with Corps permitting, the docks and
23 piers, dredging, that type of thing. That will
24 also apply to the wind projects.

1 The Outer Continental Shelf Lands Act
2 extended the geographic jurisdiction for the Corps
3 of Engineers under Section 10 of the Rivers and
4 Harbors Act for structures only. The fixed
5 structures located on the outer continental shelf
6 are regulated under Section 10.

7 In the mid 1970s, the Clean Water Act
8 got us involved in inland waters and wetlands.
9 Placement of any fill material into any wetland or
10 waterway of the United States requires a Corps of
11 Engineers permit. There are proposals for riprap
12 to be placed around the base of some of these
13 structures, and that will trigger Section 404
14 jurisdiction.

15 This slide shows the geographic extent
16 of our jurisdiction. And I don't think the laser
17 pointer is going to work from here, unfortunately.
18 A little bit of too much of an angle. But
19 basically, it's -- Section 404 jurisdiction is from
20 the high tide line seaward to the three mile limit.
21 Three miles from the shoreline our Section 404
22 jurisdiction ends. Section 10 jurisdiction is from
23 the mean high water seaward to the three mile limit
24 for all work, and extends to the outer continental

1 shelf for fixed structures only.

2 For all -- all of our permit actions,
3 we coordinate with these three federal agencies,
4 the Environmental Protection Agency, the National
5 Marine Fishery Service and U.S. Fish and Wildlife
6 Service. These agencies provide comments to us,
7 and we respond to these on a case-by-case basis.
8 They provide their expertise in our permit review.

9 Additionally, for a project, such as
10 the Winergy proposal, we can anticipate also
11 needing to coordinate with the Coast Guard, the
12 Federal Aviation Administration, the Department of
13 Interior Mineral Management Services, and the
14 Department of Energy.

15 Additionally, there is some related
16 laws, which we have to take into account under
17 Section 401 of the Clean Water Act. The state
18 needs to issue the water quality certification; and
19 under the Coastal Zone Management Act, the state
20 has to issue Coastal Zone Management Consistency
21 Certification before we can issue a permit. In
22 general terms, the order of issuance of approvals
23 has to be local, state and federal. All three
24 levels of the government have to approve the

1 project in order for it to proceed.

2 We are conducting this review jointly
3 with the state. This coordinated review helps
4 a -- to provide for a more efficient and effective
5 review process, and allows for a single
6 environmental document that will fulfill the
7 requirements of both the state and federal
8 processes.

9 There will be a great deal of overlap
10 between the two programs, but they are not
11 identical.

12 The basic steps in our review process
13 for all individual permit actions is that once we
14 receive the complete application, which we have in
15 the case of the Winergy proposal, we then issue a
16 30-day public notice. The public hearings are held
17 as needed. In this case, we determined that they
18 were required. And we are in the middle of a
19 public comment period, which has been extended to
20 May 16th. Once that is closed, we will work with
21 the agencies and the applicant to resolve issues,
22 modify the project, or add special conditions as
23 needed to address those issues that have arisen
24 through the public comment period.

1 The documentation of the process is
2 either in the form of an environmental assessment,
3 or statement of findings, or we may determine an
4 Environmental Impact Statement is required, and
5 that it will be concluded with a Record of Decision
6 before we issue our permit or deny the permit
7 application.

8 This is a flow chart. It's a very
9 simplified version of the process. It's not really
10 a linear process like this. The public interest
11 factors that are listed here, as well as the other
12 related laws and other requirements that come into
13 play, don't have a precise point at which they do
14 enter the process. Some people feel that this
15 chart is more representative of what the process
16 really looks like.

17 What is important here is showing that
18 National Environmental Policy Act is the foundation
19 for the review. We then heap on top of that all
20 these other requirements, including the 404(b)(1)
21 guidelines, Endangered Species Act, National
22 Historic Preservation Act, and we have to conclude
23 with our public interest review. In the end, we
24 have to make a determination as to whether or not

1 the project is contrary to the public interest.

2 The National Environmental Policy
3 Acts -- Act is the foundation for the permit
4 evaluation. It requires federal agencies to
5 identify, analyze and document the effects and
6 issues of federal action. All the Corps permit
7 actions are considered major federal actions, and
8 are subject to NEPA. We will have to make a
9 determination as to whether or not this project can
10 be addressed suitably through an environmental
11 assessment, or if the -- or an Environmental Impact
12 Statement may be needed.

13 The Environment Assessment, or
14 Statement of Findings always includes a project
15 description, an alternative analysis, weighing and
16 balancing of the public interest factors, readdress
17 the public and agency concerns, and then we
18 summarize that in a general evaluation.

19 In order for us to determine if an
20 Environmental Impact Statement is required, we have
21 to look at these kinds of factors, whether or not
22 impacts may be both beneficial and adverse; the
23 potential effects to public health or safety; if
24 there are -- if the geographic area has unique

1 features; if the project is particularly
2 controversial, or if there is a high level of
3 uncertainty; and we also look at whether or not it
4 may be precedent setting. That was a major factor
5 in the determination to require an Environmental
6 Impact Statement for the Cape Wind offshore wind
7 energy proposal.

8 And finally, this is if you're looking
9 for additional information on our process, please
10 do look at our website. There is quite a
11 bit -- this information is available there. There
12 are also links to the regulations and additional
13 information on the regulatory program.

14 Mr. Link.

15 (Mr. Link conferred with Ms. Adams.)

16 MR. LINK: I had to turn it on first.
17 It works better if it's on.

18 I want to thank the Army Corps.

19 Can everyone hear me?

20 Good.

21 I want to thank the Army Corps. I want
22 to thank MEPA and all the other people that took
23 the time to bring this project together.
24 I'm going to actually have slides

1 today, so I'm going to go over them in just a
2 second, but I wanted to give you an idea of how we
3 got to where we got, and -- and why we're here.

4 Dennis Quaranta, the president of
5 Winergy, and myself, had a company called
6 Mariculture Technologies that we founded in 1986;
7 and 11 years later we got a permit for an open
8 ocean water column lease.

9 In getting that permit, we -- and it
10 was the first of its type -- we encountered many,
11 many odds and ends, many things to do, many
12 agencies. I think 43 in total. We found an
13 opportunity that presented itself to us in 1999 to
14 help another applicant called Bald Eagle Power, who
15 was looking to put wind turbines in the Long Island
16 Sound. We then looked at it. We spent 18 to 22
17 months looking and reviewing every viable law that
18 we could find in every state from Maine down to
19 Virginia.

20 We then, a year ago yesterday, after
21 doing a huge amount of diligence, went to the Army
22 Corps of Engineers in New England. It was
23 April 30th. It was a year and a day ago -- the
24 Army Corps of New England -- and told them that we

1 had intentions of applying for sites, a series of
2 sites, only wanting one, not what the media says.
3 We only wanted one in federal waters and one in
4 state waters, but we applied for a series of sites
5 based on what we had learned when we did
6 Mariculture.

7 Mariculture, we had a site that we
8 liked a whole lot, and we put it in and found out
9 we had to put 10 more sites in also in order to
10 come up and hit the alternative analysis.

11 The structures that we are going to
12 place in the water are these. Now, you'll see that
13 they are 78 meters tall, and 78 meters up to the
14 nacelle. There is approximately 230, 240 feet, and
15 where they end -- they end up at 118 meters at
16 their apex, which is, you know, you're close to
17 420 feet.

18 If you want a visualization, you take
19 the Statue of Liberty without her pedestal, and
20 they are about almost at the top of the thing,
21 about three times the size. The space shuttle is
22 about half the size; and a 747, if you put it up
23 the other way again is about half the size. And
24 there is a little bus that we have all traveled on

1 at one time or another. So these are imposing
2 large pieces of technologic -- whoa -- large pieces
3 of equipment that have been performing all around
4 the world. There are 13 wind farms around the
5 world right now functioning offshore producing
6 clean, renewable energy.

7 We did not come to this lightly. We
8 want to produce clean, renewable energy, No. 1.

9 No. 2. For every turbine that we place
10 in the ocean, we will create one .75 job for each
11 turbine. So if we put in 10 turbines, we'll create
12 seven and a half jobs. If we put in 20 turbines,
13 we will create 15 jobs, full-time, high paying
14 jobs.

15 Could you go to the next slide, please.

16 Okay. I don't know if you can see
17 this, but we want you to know the thought process
18 that went into this. Right here, right over there
19 is Nantucket, Nantucket Island. Right there,
20 17 miles offshore, approximately, is one site that
21 we identified. Now, five and a half miles at the
22 closest offshore are three other sites. We do not
23 expect to get four sites permitted. We're hoping
24 to get one. That is the first part of this.

1 The Second part. Why does somebody
2 come in to -- into shallow waters? Why can't you
3 go into deep waters? Well, the technology is -- is
4 not the problem in going into deep waters. Yes,
5 there is an economic change, but the technology is
6 not the problem. The problem is insurance. You
7 cannot get property casualty and liability
8 insurance for anything over 10 fathoms, or 60 feet.
9 If you can't get property casualty and liability
10 insurance, you can't post an environmental bond.
11 You can't post a bond for decommissioning. Okay.
12 It's the only way that you can do that.

13 So it would be very foolish for any
14 applicant to take an area less than -- more than
15 60 feet in depth, make everyone go through the
16 process, and then say, well, gee, I can't get my
17 insurance to meet one of the requirements. That is
18 why you go for 10 fathoms or less.

19 Can we go to the next slide.

20 Okay. On this particular slide, and on
21 any of the slides, just to give you an idea, there
22 is 18 to 2,500 feet difference between each
23 turbine. So that turbine and that turbine, right
24 in the middle there, has 18 to 2,500 feet. A boat

1 can go through it. A fishing vessel can go through
2 it. Most of the time, large marine mammals don't
3 go through it, because it's in too shallow water.

4 There has been a lot of questions about
5 marine mammals. There have been no fatal marine
6 mammal interactions with offshore wind turbines in
7 the world. There were 175 fatal marine mammal
8 interactions in the year 2001 with power plants,
9 traditional power plants, fossil fuel and
10 otherwise. There are also fatal turtle
11 interactions with traditional power plants.

12 We don't take what we're doing very
13 lightly. We believe that there should be energy
14 security. We know the benefits of wind power. We
15 know from the EPA that the average age of a person
16 living by a traditional power plant for their
17 lifetime -- during their lifetime, they will die at
18 58. I don't live by a power plant, so maybe I
19 won't die by 58. I'll die by getting hit by a car.
20 But if I did, that would be my legacy under a
21 traditional power plant.

22 We believe, and we know that the
23 environment of the heritage that we leave to our
24 children, and in this we are going to very

1 seriously pursue as many avenues as we can to
2 establish offshore wind farms here in the United
3 States.

4 I thank you, and I'm giving this to
5 Dennis Quaranta, the president of the company.

6 MR. QUARANTA: Well, I thank you for
7 the opportunity to speak tonight. I won't be as
8 long as Bob, I promise.

9 Our society's choice of solutions to
10 today's energy problems will in some way or another
11 have a profound effect on our future. By approving
12 the efficiency and cleanliness by which energy is
13 generated and consumed, we will ensure that our
14 nation will continue to enjoy a high standard of
15 living and achieve a degree of energy independence.

16 In November of 1997, Massachusetts
17 passed a renewable portfolio standard that stated
18 by the year 2003, one percent of the power produced
19 in Massachusetts would come from a renewable source
20 of energy.

21 By the year 2010, Massachusetts is
22 looking to have five percent of all power produced
23 supplied from a renewable source of energy.

24 The application of new ideas requires

1 new thinking. We all need to be willing to engage
2 in an effective dialogue that can lead to new
3 concepts, such as offshore wind generation.

4 The value of the offshore wind energy
5 industry is being established in Europe today.
6 There was over \$100 million of offshore projects in
7 Europe in operation by the end of 2001. There will
8 be at least \$10 billion of offshore projects in
9 Europe in operation by the year 2010. The time has
10 come for offshore wind power to become an important
11 energy source here in the United States.

12 It is very fitting that we are gathered
13 in this building today for this hearing. In March,
14 in 1962, at Berkeley, John Fitzgerald Kennedy said
15 the following: Nothing is more stirring than the
16 recognition of a great public purpose. Every great
17 age is marked by innovation and daring. By the
18 ability to meet unprecedented problems with
19 intelligent solutions, we, at Winergy, feel we have
20 some of those solutions.

21 We are proposing seven wind farms.
22 Three of these wind farms are in state waters.
23 Four are in federal waters that are at least six to
24 16 or 17 miles out in the ocean.

1 The three sites in state waters are
2 roughly 18 megawatts a piece of power that they
3 will generate. The four sites that are in federal
4 waters range in size from 608 megawatts to as much
5 as 832 megawatts. Our goal is to obtain a permit
6 for one site in state waters and at least one site
7 in federal waters. We, at Winergy, hope we have
8 the opportunity to help the State of Massachusetts
9 obtain its RPS goals.

10 Thank you very much.

11 MODERATOR ROSENBERG: Thank you.

12 Ladies and gentlemen, it is crucial to
13 this public process that your voice is heard, and
14 we're here to listen, to listen to your comments,
15 to understand your concerns, and to provide you an
16 opportunity to put your thoughts on the record,
17 should you care to do so.

18 Furthermore, in order to make any
19 decisions regarding this permit application, we,
20 the United States Army Corps of Engineers, need to
21 have you involve yourself not just this afternoon,
22 but throughout the entire process.

23 When you came in, copies of the public
24 notice and the procedures to be followed at this

1 hearing were available. If you did not receive
2 these, both are available at the registration desk.
3 I will not read either of the procedures or the
4 public notice, but they will be entered into the
5 record.

6 A transcript of this hearing will be
7 prepared, and the record will remain open, and
8 written comments may be submitted today. We have
9 boxes both in the front and the rear, or by mail
10 until May 16th, 2003.

11 All comments will receive equal
12 consideration, and anyone who cannot attend, but
13 who wishes to send written comments, should forward
14 those comments to our Concord, Massachusetts
15 headquarters.

16 Lastly, I would like to reemphasize
17 that the Corps of Engineers has made no decision
18 with regard to this permit. It is our
19 responsibility to fully evaluate Winergy's proposed
20 activity and its impact prior to any decision. In
21 order to accomplish that, we need your input.

22 Again, we're here to receive your
23 comments, not to enter into any discussion of those
24 comments, or to reach any conclusion. All

1 questions you have should be directed to the
2 record.

3 Sir, if there is no objection, I will
4 now dispense with the reading of the public notice
5 and have it entered into the record of the hearing.

6 Thank you, sir.

7 A transcript of this hearing is being
8 made to assure a detailed review of all the
9 comments. A copy of the transcript will be
10 available at our Concord, Massachusetts,
11 headquarters for your review. It will be added to
12 for website, for whatever you want to do with it.
13 You can download it, or you can make arrangements
14 with the stenographer for a copy at your own
15 expense.

16 Individuals speaking today will be
17 called to either of the microphones in the order
18 they signed in, and as provided for in the hearing
19 protocol. When making a statement, come forward to
20 the microphone, and please state your name and
21 interest you represent.

22 We have a preset time limit, as we've
23 carried on from Nantucket, which will be four
24 minutes. When the red light comes on, I ask you to

1 summarize what you are saying and end your
2 comments. The green light will indicate two
3 minutes remaining; the amber, one minute left; and
4 the red light, please summarize at that time.

5 Please identify if you're speaking for
6 or representing a position of an organization. If
7 you speak for yourself, say so.

8 I want to emphasize, again, that all
9 who wish to speak will have an opportunity to do
10 so.

11 We will now receive your comments
12 according to those protocols, and our first speaker
13 to provide comment will be Mr. Vernon Lang of the
14 U.S. Fish and Wildlife Service.

15 VERNON LANG: Good afternoon.

16 My name is Vernon Lang. I am
17 representing the U.S. Fish and Wildlife Service,
18 the New England field office in Concord, New
19 Hampshire.

20 My remarks today are generally
21 restricted to process or procedural issues, rather
22 than resource-based issues.

23 During the past 18 months or so, agency
24 staff and members of the public have been involved

1 in the environmental review of a similar large
2 scale offshore wind farm proposal, the Cape Wind
3 Project. Fortunately, for that proposal, we have
4 been able to move forward with a joint EIR/EIS
5 review where we have some sense of direction and
6 certainty in an otherwise uncertain administrative
7 process.

8 The Winergy proposal is being handled
9 differently, at least for now, and it is not clear
10 to us why this should be so. Based on size and
11 other similarities to Cape Wind, we believe the
12 Winergy proposal is one that should require an EIS,
13 and preferably a joint EIR/EIS. And as an example,
14 the seven sites in Winergy's application would
15 encompass 189.63 square miles of water sheet
16 surface area versus the approximately 28 or so for
17 the Cape Wind proposal.

18 Procedures are available to the
19 applicant and the legal agencies that could lead to
20 a joint EIR/EIS review process. These could
21 include an expanded ENF on a scale and content
22 similar to that previously filed by the Cape Wind
23 proposal, and as provided in 301CMR1105, part 7.
24 It could be done using the special procedures to

1 establish a joint review, as provided in
2 301CMR1109, Section 4(c); it could also be
3 accomplished by holding the applications in
4 abeyance, pending the filing of more complete
5 information, as the Fish and Wildlife suggested in
6 our March 3rd, 2003 Winergy's data tower
7 application, or it could be accomplished simply by
8 deciding to require an EIS, which we understand
9 that Winergy is, or may be agreeable to undertake,
10 using a third party or a contract arrangement.

11 Whatever path you choose, we suggest
12 that you make the necessary decisions sooner rather
13 than later so that we may have a more certain
14 procedural pathway for agency and public
15 participation.

16 One of the off shoots of the proposal
17 that raises some issues for us has been the fact
18 that because this application has been put out on
19 public notice, unlike the situation for Cape Wind,
20 if forces agencies, such as Fish and Wildlife
21 Service, who have to operate under the interagency
22 MOA between the Department of the Army and the
23 Department of the Interior to utilize the -- the
24 elevation procedures in the MOA to protect our

1 interests further down the road, should we have
2 some difficulties with the project later on.

3 Currently, we don't know enough about
4 the project to have specific comments; and so
5 procedurally, it's sort of creating some -- or
6 potentially creates some tension between us and the
7 Corps or the state, or between us and the
8 applicant, and we think that is unfortunate.

9 Thank you.

10 MODERATOR ROSENBERG: Thank you, sir.

11 The next speaker, Mr. Tod Hynes of
12 Chestnut Hill, Massachusetts.

13 TOD HYNES: My name is Tod Hynes. I am
14 a Boston and Cape Cod resident. I am also the vice
15 president of Business Development for Strategic
16 Energy Systems, and the Treasurer for the Boston
17 Climate Action Network.

18 The strong and negative public response
19 to the proposed wind farms has raised poignant
20 issues, such as siting, regulatory and
21 environmental concerns. These issues need to be
22 addressed, but the public needs to avoid
23 overreacting and generating a negative backlash to
24 renewable energy.

1 Renewable energy, such as wind power,
2 does have a place in our communities, if it is
3 developed responsively. People need to realize the
4 true cost of our current energy system.

5 Ninety-five percent of all U.S. Government energy
6 subsidies go to traditional energy sources, such as
7 coal, oil, natural gas and nuclear, with only five
8 percent going to energy efficiency and renewable
9 energy.

10 Just this past weekend, we were
11 reminded of the immediate environmental impacts of
12 our current system when an oil-carrying barge
13 spilled 15,000 gallons of oil into Buzzards Bay.
14 This spill is just a warning of the cost and threat
15 posed to the Cape Cod and Massachusetts coastline
16 by the oil fired Cape Cod Canal electric plant that
17 consumes over one million gallons of oil every day,
18 oil that is delivered by barges and ships that
19 constantly travel through the surrounding waters.
20 Unless we start to free ourselves from depending on
21 oil, especially for providing the Cape and
22 surrounding areas with electricity, our waters will
23 always be vulnerable to environmental catastrophes
24 that will dwarf this recent spill.

1 I challenge anyone who opposes wind
2 power, due to noise or other environmental impacts,
3 to educate themselves on the impacts of our current
4 energy system and then visit the Town of Hull's
5 wind turbine and speak with the people in that
6 community before actively blocking responsible wind
7 projects.

8 Thank you.

9 MODERATOR ROSENBERG: Thank you, sir.

10 The next speaker, Ms. Dorothy Allen of
11 Nahant, Massachusetts.

12 DOROTHY ALLEN: Hello. Testing.

13 I come here to speak for myself. I
14 live in Nahant, which is a coastal community north
15 of Boston; and just a couple of days ago our
16 community voted in what we termed Nahant's Wind
17 Power and Alternative Energy Committee, which will
18 be studying the feasibility of building wind
19 turbines, either along the causeway -- there is
20 upland locations in the Town -- or even perhaps
21 offshore. So we are very enthusiastic, and I
22 myself am very enthusiastic towards wind power.

23 From the information that I received
24 from the Corps, there is very little that can be

1 said about the application at this point. It seems
2 to have no details pertaining to construction,
3 transmission lines; no environmental impact
4 evaluations of any kind. And so before you would
5 seriously consider granting any kind of a permit
6 here, or I would consider -- I would, you know,
7 greatly urge you to require the filing of
8 appropriate documents.

9 It -- what also is somewhat disturbing
10 is that the proposed site seems to be located in
11 particularly vulnerable areas environmentally. One
12 of them is right off of Plum Island in Ipswich, and
13 another one is right off of the National Seashore
14 in Cape Cod. I'm not familiar with Buzzards Bay,
15 but I am wondering if there is some nesting areas
16 there as well.

17 The other -- the other large wind farm
18 locations seem to be very closely located to the
19 Cape Wind project; and so at this point, I would
20 like to just direct my comments directly to you
21 state and federal officials here. What we seem to
22 be facing in New England, and perhaps up and down
23 the East Coast now, is a series of applications for
24 more and more wind development, and I think we

1 start -- have to start to think about cumulative
2 impacts of these -- of these wind farms.

3 So I urge you to develop permit
4 guidelines that are associated with, particularly,
5 wind farm development, and to look to Europeans,
6 who have, you know, mapped out their resources for
7 wind development, and maybe proceed the way other
8 countries have proceeded.

9 I also -- the very important thing is
10 that within a three mile limit, there's also,
11 besides being state waters, I believe those are
12 waters that are also under some jurisdiction of
13 local governments. And particularly in Ipswich,
14 I'm wondering, and in communities such as Orleans
15 and Eastham, where the communities like Hull are
16 looking to perhaps put in wind farms there, where
17 these kind of proposals are going to take away
18 rights of those communities to develop their own
19 community based wind farm projects.

20 I would also urge you to develop
21 databases for avian impacts and map out resources,
22 habitat feeding, nesting areas, migration
23 resources, for birds. I believe that has not been
24 done on a federal level or state level.

1 So that's my comments.

2 Thank you.

3 MODERATOR ROSENBERG: Thank you very
4 much.

5 Ladies and gentlemen, that's the last
6 of those individuals that have signed in. I
7 understand that the result -- this is the last of
8 five public hearings throughout the Commonwealth
9 regarding the Winergy public -- the Winergy permit
10 request.

11 Is there anybody in the audience right
12 now, who has not filled out card requesting to
13 speak, that would like to come to the microphone
14 and give comment?

15 EDWARD PERRY: I just have a question.
16 Can you ask questions?

17 MODERATOR ROSENBERG: No, sir.

18 EDWARD PERRY: Okay.

19 MODERATOR ROSENBERG: You may ask your
20 question. We encourage you to ask your question to
21 the record, so we can look to answer it in our
22 responses.

23 AUDIENCE PARTICIPANT: You can ask, but
24 it won't be answered.

1 EDWARD PERRY: I can ask you, but it
2 won't -- okay. I'm just --

3 MODERATOR ROSENBERG: Please come to
4 the microphone and state your name and where you're
5 from.

6 EDWARD PERRY: I'm Ed Perry. I am a
7 reporter with WATD Radio on the South Shore, and
8 I'm curious...we've heard a number of the wind
9 proposals. This is the second year in a row that I
10 have been up here to listen to a proposal, and I'm
11 curious.

12 When a company gets a permit to use the
13 state or public property for the purpose of
14 generating electricity, which is presumably a
15 commercial enterprise, how much money do they pay
16 to either the federal or state government for the
17 right to use the federal or state property for a
18 commercial purpose?

19 Thank you.

20 MODERATOR ROSENBERG: Thank you, sir.

21 Is there anyone else who here, who did
22 not fill out a card, but wishes to provide comment
23 for the record?

24 Ladies and gentlemen, at this time, we

1 will take a short recess, and see if anybody would
2 like to provide additional comment when we
3 reconvene, and we will reconvene at 2:30.

4 Thank you.

5 (Whereupon, there was a short break
6 taken.)

7 MODERATOR ROSENBERG: Is there any
8 anybody who wishes to provide comment on the
9 record?

10 Okay. Now, ladies and gentlemen,
11 Colonel Koning.

12 COLONEL KONING: For those of you who
13 made comments today, I appreciate your comments and
14 concerns that were expressed this afternoon. We
15 will give careful analysis to those comments, and
16 the comments we have received at previous public
17 hearings, before determination will be made and a
18 decision rendered.

19 Again, written statements may be
20 submitted to the Corps of Engineers until May 16th
21 of 2003, or to the MEPA people at EOE. They will
22 receive equal consideration with any comments made
23 here today.

24 Each question or issue raised will be

1 addressed in our Statement of Findings on the Corps
2 determination regarding the Winergy L.L.C. permit
3 application.

4 We at the Corps wish to extend our
5 appreciation to all of those that took the time to
6 come and speak today and involve themselves in this
7 public process review.

8 And finally, I would like to conclude
9 the hearing and extend my appreciation to the JFK
10 Federal Building and GSA for the use of these
11 facilities today. And I'd like to thank all of you
12 for taking your time for -- to give us your
13 thoughts and your comments and your concerns.

14 Thank you very much.

15 (Applause.)

16
17 (Whereupon, at 2:33 p.m., the hearing
18 was adjourned.)

19
20
21
22
23
24

C E R T I F I C A T E

I, Marianne Kusa-Ryll, Registered Merit Reporter, do hereby certify the foregoing to be a true and complete transcript of the proceedings of the United States Army Corps of Engineers Public Hearing taken on Thursday, May 1, 2003, at the JFK Federal Building, Boston, Massachusetts, Moderator Larry Rosenberg, presiding.

Marianne Kusa-Ryll, RMR

Massachusetts CSR No. 116393